

**PT 99-11**

**Tax:           PROPERTY TAX**  
**Issue:       Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>QUINN MATTHEW TRUST</b>	)	<b>Docket #</b>	<b>97-84-11</b>
<b>Applicant</b>	)		
	)	<b>A.H. Docket #</b>	<b>98-PT-0004</b>
<b>v.</b>	)		
	)	<b>Parcel Index #</b>	<b>05-32-400-015</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		
<b>OF THE STATE OF ILLINOIS and</b>	)	<b>Barbara S. Rowe</b>	
<b>THE COUNTY OF SANGAMON</b>	)	<b>Administrative Law Judge</b>	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Robert L. Smith, Assistant State's Attorney for the County of Sangamon.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue on June 23, 1998, to determine whether or not Sangamon County Parcel Index No. 05-32-400-015 should be exempt from property tax for the 1997 assessment year.

Clyde LaRue, Managing Director of the Quinn Matthew Trust (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter are whether the applicant was the owner of the parcel during the 1997 assessment year; and secondly, whether the applicant used the parcel for exempt purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant did not own the parcel during the 1997 assessment

year. It is also determined that the applicant did not use the property for exempt purposes during the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Sangamon County Parcel Index No. 05-32-400-015 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 6. (Tr. pp. 11, 22)

2. On July 17, 1997, the Department received a property tax exemption application from the Sangamon County Board of Review for Permanent Parcel Index No. 05-32-400-015. The applicant had submitted the request, and the board recommended denial of the exemption for the 1997 assessment year. The date of the Board's action was June 16, 1997. The Department assigned Docket No. 97-84-11 to the application. (Dept. Grp. Ex. No. 2)

3. On December 11, 1997, the Department denied the requested exemption application, finding that the property was not in exempt ownership and use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on June 23, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a warranty deed dated July 15, 1993. The applicant conveyed the subject parcel to William L. Everett and Helen R. Everett on November 4, 1996. (Dept. Grp. Ex. No. 2 p. 3; Applicant's Ex. No. 1)

7. In 1996, the property was being sold on contract for deed to the Everetts. The witness for the applicant did not know what the property was being used for because he did not interfere into the lives of the Everettes. (Tr. p. 19)

8. On June 16, 1997, the Sangamon County Board of Review was sitting for the 1997 assessment year. (Dept. Ex. No. 6)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The applicant herein did not own the subject property in 1997, the taxable year at issue. At 35 **ILCS** 200/9-175 it is stated, “The owner of property on January 1 in any year shall be liable for the taxes of that year, . . .” If the applicant herein is not liable for the taxes on the subject parcel, he cannot qualify for an exemption from the taxes for that year.

The duties of the Boards of Review include the following found at 35 **ILCS** 200/16-70, which states in part as follows:

The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation . . . .

In the case of Highland Park Women’s Club v. Department of Revenue, 206 Ill.App. 3d 447 (2<sup>nd</sup> Dist. 1991) *cert. denied* 137 Ill.2d 665(1991), Paul Hamer filed complaints with the Lake County Board of Review challenging exemptions from property tax that had been

granted to the Highland Park Women's Club and the Ravinia Festival Association. The Appellate Court, citing the Revenue Act of 1939 equivalent of the foregoing statutory provision<sup>1</sup>, determined that Mr. Hamer did not have standing to challenge an exemption before the board because he was not being taxed on the property. He was not being taxed on the property because he did not own the property. The court stated that "upon remand, Hamer should not be permitted to participate as a party . . . ." *Id.* at 463

I therefore find that the applicant herein did not have standing to apply for a property tax exemption on a piece of property that was not owned by the applicant in the taxable year in question. Because the applicant did not own this property in 1997, I also find that the applicant did not use the property for exempt purposes in that year as well.

It is therefore recommended that Sangamon County Parcel Index No. 05-32-400-015 remain on the tax rolls for the 1997 assessment year.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
January 27, 1999

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<sup>1</sup> Found at that time at Ill. Rev. Stat. 1985, ch. 120, par. 588(6).